

105TH CONGRESS
1ST SESSION

S. 1067

To prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

IN THE SENATE OF THE UNITED STATES

JULY 24, 1997

Mr. KERRY (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. LEAHY, Ms. MOSELEY-BRAUN, Mr. WELLSTONE, Ms. LANDRIEU, Mr. KENNEDY, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Code of Conduct on
5 Arms Transfers Act of 1997”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to provide clear policy
3 guidelines and congressional responsibility for determining
4 the eligibility of foreign governments to be considered for
5 United States military assistance and arms transfers.

6 **SEC. 3. PROHIBITION OF UNITED STATES MILITARY**
7 **ASSISTANCE AND ARMS TRANSFERS TO**
8 **CERTAIN FOREIGN GOVERNMENTS.**

9 (a) PROHIBITION.—Except as provided in subsections
10 (b) and (c), beginning on and after October 1, 1998, Unit-
11 ed States military assistance and arms transfers may not
12 be provided to a foreign government for a fiscal year un-
13 less the President certifies to Congress for that fiscal year
14 that such government meets the following requirements:

15 (1) PROMOTES DEMOCRACY.—Such govern-
16 ment—

17 (A) was chosen by and permits free and
18 fair elections;

19 (B) promotes civilian control of the mili-
20 tary and security forces and has civilian institu-
21 tions controlling the policy, operation, and
22 spending of all law enforcement and security in-
23 stitutions, as well as the armed forces;

24 (C) promotes the rule of law, equality be-
25 fore the law, and respect for individual and mi-

1 nosity rights, including freedom to speak, pub-
 2 lish, associate, and organize; and

3 (D) promotes the strengthening of politi-
 4 cal, legislative, and civil institutions of democ-
 5 racy, as well as autonomous institutions to
 6 monitor the conduct of public officials and to
 7 combat corruption.

8 (2) RESPECTS HUMAN RIGHTS.—Such
 9 government—

10 (A) does not engage in gross violations of
 11 internationally recognized human rights,
 12 including—

13 (i) extrajudicial or arbitrary
 14 executions;

15 (ii) disappearances;

16 (iii) torture or severe mistreatment;

17 (iv) prolonged arbitrary imprisonment;

18 (v) systematic official discrimination
 19 on the basis of race, ethnicity, religion,
 20 gender, national origin, or political affili-
 21 ation; and

22 (vi) grave breaches of international
 23 laws of war or equivalent violations of the
 24 laws of war in internal conflicts;

1 (B) vigorously investigates, disciplines, and
2 prosecutes those responsible for gross violations
3 of internationally recognized human rights;

4 (C) permits access on a regular basis to
5 political prisoners by international humani-
6 tarian organizations such as the International
7 Committee of the Red Cross;

8 (D) promotes the independence of the judi-
9 ciary and other official bodies that oversee the
10 protection of human rights;

11 (E) does not impede the free functioning of
12 domestic and international human rights orga-
13 nizations; and

14 (F) provides access on a regular basis to
15 humanitarian organizations in situations of con-
16 flict or famine.

17 (3) NOT ENGAGED IN CERTAIN ACTS OF ARMED
18 AGGRESSION.—Such government is not currently en-
19 gaged in acts of armed aggression in violation of
20 international law.

21 (4) FULL PARTICIPATION IN UNITED NATIONS
22 REGISTER OF CONVENTIONAL ARMS.—Such govern-
23 ment is fully participating in the United Nations
24 Register of Conventional Arms.

1 (b) REQUIREMENT FOR CONTINUING COMPLI-
2 ANCE.—Any certification with respect to a foreign govern-
3 ment for a fiscal year under subsection (a) shall cease to
4 be effective for that fiscal year if the President certifies
5 to Congress that such government has not continued to
6 comply with the requirements contained in paragraphs (1)
7 through (4) of such subsection.

8 (c) EXEMPTIONS.—

9 (1) IN GENERAL.—The prohibition contained in
10 subsection (a) shall not apply with respect to a for-
11 eign government for a fiscal year if—

12 (A) subject to paragraph (2), the President
13 submits a request for an exemption to Congress
14 containing a determination that it is in the na-
15 tional security interest of the United States to
16 provide military assistance and arms transfers
17 to such government; or

18 (B) the President determines that an
19 emergency exists under which it is vital to the
20 interest of the United States to provide military
21 assistance and arms transfers to such govern-
22 ment.

23 (2) DISAPPROVAL.—A request for an exemption
24 to provide military assistance and arms transfers to
25 a foreign government shall not take effect, or shall

1 cease to be effective, if a law is enacted disapproving
2 such request.

3 (d) NOTIFICATIONS TO CONGRESS.—

4 (1) IN GENERAL.—The President shall submit
5 to Congress initial certifications under subsection (a)
6 and requests for exemptions under subsection
7 (c)(1)(A) in conjunction with the submission of the
8 annual congressional presentation documents for for-
9 eign assistance programs for a fiscal year and shall,
10 where appropriate, submit additional or amended
11 certifications and requests for exemptions at any
12 time thereafter in the fiscal year.

13 (2) DETERMINATION WITH RESPECT TO EMER-
14 GENCY SITUATIONS.—Whenever the President deter-
15 mines that it would not be contrary to the national
16 interest to do so, he shall submit to Congress at the
17 earliest possible date reports containing determina-
18 tions with respect to emergencies under subsection
19 (c)(1)(B). Each such report shall contain a descrip-
20 tion of—

21 (A) the nature of the emergency;

22 (B) the type of military assistance and
23 arms transfers provided to the foreign govern-
24 ment; and

1 (C) the cost to the United States of such
2 assistance and arms transfers.

3 **SEC. 4. PROMOTING AN INTERNATIONAL ARMS TRANSFERS**
4 **REGIME.**

5 (a) INTERNATIONAL COOPERATION.—Prior to the be-
6 ginning of each fiscal year, the President shall compile a
7 list of countries that do not meet the requirements in sec-
8 tion 3(a) and for which the President has not requested
9 an exemption under section 3(c). The President shall—

10 (1) notify the governments participating in the
11 Wassenaar Arrangement on Export Controls for
12 Conventional Arms and Dual Use Goods and Tech-
13 nologies, done at Vienna, July 11 and 12, 1996 (in
14 this section referred to as the “Wassenaar Arrange-
15 ment”), and such other foreign governments as the
16 President deems appropriate, that the countries so
17 listed are ineligible to receive United States arms
18 sales and military assistance under this Act; and

19 (2) request that the countries so notified also
20 declare the listed countries as ineligible for arms
21 sales and military assistance.

22 (b) MULTILATERAL EFFORTS.—The President shall
23 continue and expand efforts through the United Nations
24 and other international fora, such as the Wassenaar Ar-
25 rangement, to limit arms transfers worldwide, particularly

1 transfers to countries that do not meet the criteria estab-
2 lished in section 3, for the purpose of establishing a per-
3 manent multilateral regime to govern the transfer of con-
4 ventional arms.

5 (c) REPORT.—

6 (1) IN GENERAL.—Beginning one year after the
7 date of enactment of this Act, and annually there-
8 after, the President shall submit a report to Con-
9 gress—

10 (A) describing efforts he has undertaken
11 during the preceding year to gain international
12 acceptance of the principles contained in section
13 3; and

14 (B) evaluating the progress made toward
15 establishing a multilateral regime to control the
16 transfer of conventional arms.

17 (2) SUBMISSION OF THE REPORT.—This report
18 shall be submitted in conjunction with the submis-
19 sion of the annual congressional presentation docu-
20 ments for foreign assistance programs for a fiscal
21 year.

1 **SEC. 5. UNITED STATES MILITARY ASSISTANCE AND ARMS**
2 **TRANSFERS DEFINED.**

3 For purposes of this Act, the terms “United States
4 military assistance and arms transfers” and “military as-
5 sistance and arms transfers” mean—

6 (1) assistance under chapter 2 of part II of the
7 Foreign Assistance Act of 1961 (relating to military
8 assistance), including the transfer of excess defense
9 articles under section 516 of that Act;

10 (2) assistance under chapter 5 of part II of the
11 Foreign Assistance Act of 1961 (relating to inter-
12 national military education and training); or

13 (3) the transfer of defense articles, defense
14 services, or design and construction services under
15 the Arms Export Control Act (excluding any trans-
16 fer or other assistance under section 23 of such
17 Act), including defense articles and defense services
18 licensed or approved for export under section 38 of
19 that Act.

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